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To: Commissioner For Patents   **Date:**   January 25, 2007
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Art Unit 3624

Fax #: 571-273-8300   **Pages:**   13, including this cover sheet.

From: Kenneth L. Nash

Subject: Appellant's Reply to Examiner's Answer; Transmittal Form

Application No:	10/628,819
First Named Inventor:	Walter L. Raines
Filing Date:	July 28, 2003
Art Unit:	3624
Examiner Name:	Lalita M. Hamilton
Atty Docket No.	Raines-003

Thank you.

[signature]

Kenneth L. Nash
Reg. No. 34,399

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TRANSMITTAL FORM *(to be used for all correspondence after initial filing)*	Application Number	10/628,819
	Filing Date	July 28, 2003
	First Named Inventor	Walter L. Raines
	Art Unit	3624
	Examiner Name	Lalita M. Hamilton
Total Number of Pages in This Submission **13**	Attorney Docket Number	Raines-003

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☐ Fee Attached	☐ Licensing-related Papers	☐ Appeal Communication to Board of Appeals and Interferences
☐ Amendment/Reply	☐ Petition	☑ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
☐ After Final	☐ Petition to Convert to a Provisional Application	☐ Proprietary Information
☐ Affidavits/declaration(s)	☐ Power of Attorney, Revocation Change of Correspondence Address	☐ Status Letter
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Walter L. Raines

Apln. No. 10/628,819

Filed: 07/28/2003

For: **RECEIPT PROCESSING**
SYSTEM AND METHOD

Examiner: Lalita M. Hamilton

Group Art Unit: 3624

Atty. Dkt.: Raines-003

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APPELLANTS' REPLY BRIEF

In response to the Examiner's Answer in the present appeal mailed
November 30, 2006, this Reply Brief is being filed pursuant to Section 41.41.

REPLY ARGUMENT

35 U.S.C. 102(b)

1.   Claims 1 and 16 -   rejection under 35 U.S.C. 102(b) –
First disputed limitation:
"said machine readable data comprises at least a credit card number, said
amount of purchase, and a date of purchase."

The above limitation <u>must</u> be shown because it is required by claims 1 and 16 to support a rejection under 35 U.S.C. 102(b). Applicant respectfully submits that the Examiner has not shown any recitation in which Ballard discloses this element, and that therefore the rejection under 35 U.S.C. 102(b) is traversed.

Evidence provided by the Examiner as proof of the first disputed limitation:
Ballard FIG. 3B, Ballard Col. 5, line 64-Col. 6 line 28

Ballard FIG. 3B

In the Examiner's Answer on page 4, middle of the top paragraph, and pages 6, last paragraph to page 7, the Examiner incorrectly argues that the dataglyphs shown at the top of Ballard Fig. 3B is evidence that Ballard anticipates the disputed limitation. Fig. 3B is shown in Examiner's Answer on page 7.

Without intent to be facetious, but simply to illustrate the point, unless the Examiner has "X-Ray vision" that can somehow decipher the content of the dataglyphs shown at the top of the receipt in Fig. 3B, which the Examiner cites as evidence of anticipation, then Fig. 3B in itself does not specify the content of the dataglyphs.

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Many POS receipt printers are not able to accurately produce dataglyphs. Because Ballard claims the ability to process all manner of documents(Col. 1, line 32-52, Col. 3, lines 37-43), one of skill would immediately recognize that Ballard does not rely on the dataglyphs to obtain data from the documents. In fact, Ballard specifically provides that his system may be used without the dataglyphs or with damaged dataglyphs (Col. 10, line 65).

Applicant has consistently agreed that the dataglyphs at the top of the receipt in Fig. 3B are machine-readable data. However, it is impossible when simply looking at the receipt of Fig. 3B to say what data the dataglyphs contain. As discussed below, the cited passage from the specification, Ballard Col. 5, line 64 - Col. 6 line 28, does not say this at all. Applicant also agrees that the human readable text of Fig. 3 includes the credit card number, amount of purchase, and a date of purchase. However, this does not satisfy the claim limitation.

The Examiner is correct to refer to the dataglyphs as the machine-readable data required by the claim language, but the Examiner is simply wrong to argue that the dataglyphs include the specific information required for Applicant's invention to operate. Although the Examiner has not argued this, the human readable text on the receipt of Fig. 3B cannot be the "machine readable data," in order to satisfy the claim language. While the human readable text could be read by machine by OCR (optical character recognition), the argument fails because the claim language calls for machine-readable language and separately positioned human readable text. The human readable text in itself cannot satisfy both claim limitations for machine-readable data and the separately located human readable text.

Ballard Col. 5, line 64–Col. 6 line 28

In Applicant's Brief on page 19, Applicant points out that not only does Ballard not teach the disputed limitation, but also that Ballard's teaching is contrary to this conclusion.

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Ballard plainly states that the actual purpose of the dataglyphs in Fig. 3B is to provide "error correction codes," nothing more. Utilizing the error correction codes, Ballard teaches that a human operator only need look at the fields in error rather than at the entire ticket. (See Ballard Col. 15, line 37-65 and Col 6, lines 15-16). Ballard obtains information from the bit image snippets (or fields of human readable text) of the receipt after the BI (bit image) of the receipts are sent to the high speed central processing system 600 (see Fig. 1, Col. 20, line 58-64). This type of processing is normally referred to as OCR (optical character recognition). OCR is inherently unreliable. It is for this reason that the errors arise. Ballard believes his error correction scheme is an improvement, which allows operators to more quickly manually correct the ticket information (Col. 15, line 37-65). Ballard's manual error correction scheme that is used to quickly locate errors manually has nothing to do with Applicant's invention, or the disputed limitation. Applicant does not use this type of error correction scheme and considers it far too costly to be of any practical value.

Also, the Examiner's Answer does not tell us where in Col. 5, line 64- Col. 6, line 28 it is taught that the dataglyphs contain "at least a credit card number, said amount of purchase, and a date of purchase." The citation does not say anything like this. The only discussion about the content of the dataglyphs within this entire citation appears to be in Col. 6, lines 15-23 which says the dataglyphs contain "error correction codes." The Examiner's Answer does not provide a plausible explanation why Ballard says the dataglyphs contain "error correction codes," instead of specifying the data required in the first disputed limitation.

In fact, the Examiner's position is flatly contrary to Ballard's actual teachings. Ballard says the information in the dataglyphs is formatting information, as discussed on page 19 of Applicant's Brief. The "error correction codes" found in dataglyphs are used by human operators who more quickly locate information for a particular type of document in specific fields or snippets based on a "template", which can be provided in the large amounts of information in the dataglyphs. See Col. 15, lines 37-65; Col. 6, lines 15-23, Col. 20, lines 57-64). The Examiner incorrectly paraphrases Ballard in a manner that is contrary to what Ballard actually teaches.

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Accordingly, the rejection under 35 U.S.C. 102(b) is improper because the first limitation of claims 1 and 16 for the information in Ballard's dataglyphs is not disclosed.

2.   **Claims 1 and 16 - rejection under 35 U.S.C. 102(b)**
      Second disputed limitation:
      "utilizing said recognized machine-readable data so as to be organized for electronic retrieval based on said machine-readable data."

The evidence relied upon by the Examiner:

Col. 3, lines 32-67

The last limitation required by claims 1 and 16 was not mentioned in any rejection and is addressed for the first time in the Examiner's Answer.   The Examiner now cites another rather lengthy passage, namely Col. 3. lines 32-67. The Examiner does not specify where in the passageway the support exists for the language of the disputed limitation. In fact, there is nothing in this citation about using the machine-read data, i.e., the dataglyphs from the receipts.

The Examiner does not explain how it is possible that Ballard uses data from the dataglyph for indexing purposes needed to index every receipt, when Ballard plainly states that the dataglyph may be missing or damaged, as discussed by Applicant's Brief on page 21, first paragraph (See also Ballard Col. 10, line 60).   Apparently, the Examiner would have us believe that some receipts, those with damaged or missing dataglyphs, are not indexed. According to the Examiner's analysis, those receipts are apparently discarded, because the Examiner provides no explanation how those receipts are indexed. In fact, because most POS printers are not able to produce dataglyphs, all these receipts would have damaged or missing dataglyphs. Yet, Ballard says his system can process any manner of documents, such as expense forms, tax forms, and even

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surveys (Col. 3, lines 32-52). Ballard could not do this if Ballard operated as the Examiner asserts.

Ballard obtains information from the bit image snippets (or fields of human readable text) of the receipt after all receipts are sent to the high speed central processing system 600 (see Fig. 1, Col. 20, line 59-62). Because the data is produced from human readable text in the snippets or fields of human readable text, this type of processing is normally referred to as OCR (optical character recognition). The inaccuracy of OCR processing requires Ballard to provide manual correction of the receipts.

The Examiner also did not address Applicant's argument on page 21, last paragraph wherein the credit card number, amount of purchase, and a date of purchase is produced by the POS (point of sale) credit card reader equipment 212, and may be produced for use by Ballard prior to scanning the receipts, if desired. Thus, the "transaction data" for indexing purposes might come from the POS equipment by entry of the sale with the cash register and credit card scanner, whereupon the scanned bit image is stored using the POS derived data. This is how images of receipts in other prior art systems are indexed. This type of indexing does not satisfy Applicant's second disputed limitation (or the first disputed limitation).

Instead, Applicant's claim language requires using the machine-read data from the receipts (not the human readable text or POS derived data) for organizing and retrieving the receipts, rather than the separately positioned human readable text.

Because Ballard clearly has other ways of obtaining the credit card number, amount of purchase, and a date of purchase other than by Applicant's first disputed limitation, and because Ballard does not disclose obtaining the indexing information by scanning the receipts as required by the second disputed limitation, the rejection is clearly traversed.

Accordingly, the Examiner has not provided support for a rejection under 35 U.S.C. 102(b) of claims 1 and 16.

3.   Claims 1 and 16 rejection under 35 U.S.C. 102(b)—

On page 8, second paragraph, the Examiner argues that Col. 3, lines 32-67 provides proof that the "error correction codes" of Col. 6, lines 15-22, and Col 15, lines 37-57, in the dataglyphs is "transaction data."

However, this citation provides no discussion of either the dataglyphs or "error correction codes." The Examiner's interpretation of this citation, as well as the other citation, appears to be nothing more than pure speculation. The Examiner has provided no factual evidence of anticipation.

Again, the Examiner does not explain how it is possible that Ballard uses data from the dataglyph for indexing purposes, needed to index every receipt, when Ballard plainly states that the dataglyphs may be missing or damaged, as discussed by Applicant's Brief on page 21, first paragraph (See also Ballard Col. 10, line 60).

Ballard actually says that the human readable text from each snippet could be read using OCR based on the template of the BI (bit image) (Col. 20, lines 58-64). The paper transaction data is readily available from the point of sale equipment, which reads the credit card and sends the transaction information. Col. 6, line 38-39. Thus, Ballard teaches two possibilities for obtaining transaction.

. Nowhere does Ballard say that the transaction data is found in the separately located dataglyphs, and is used for indexing purposes. With all respect, the Examiner's interpretation of this citation, as well as the other citations, appears to be wrong. The Examiner has provided no factual evidence of anticipation.

Accordingly, the rejection to claims 1 and 16 is respectfully traversed.

4.   Claims 5, 16, 21 —rejection under 35 U.S.C. 102(b)

Disputed limitation:

"a printer and programming for producing a paper receipt...such that said plurality of paper receipts comprise machine readable data and separately located human readable text.

On page 8, first paragraph the Examiner claims that the disclosure of a "printer" necessarily discloses that the printer is programmed as taught only by

Applicant to provide the information required by the claim language into the dataglyphs.

With all respect, the Examiner improperly interprets that just because a printer exists, that it necessarily provides sufficient support for rejection under 35 U.S.C. 102(b) where the claim language plainly requires more than this, i.e., programming to produce a specific type of receipt as per the disputed limitation. There is no reason to believe the printer is programmed in this way. Conceivably, the "error correction codes" for particular types of documents, which show the location or template of the snippets or fields on the receipt, could be pre-printed on a roll of receipts.

The rejection is improper because it does not show the disputed limitation, and is clearly traversed.

5.   **Claim 18 rejections under 35 U.S.C. 102(b)**

On page 9, second paragraph, the Examiner's Answer states that Ballard discloses that the dataglyphs contain the merchant number citing Fig. 3B, and Col. 9, line 20 – Col. 10, line 40.

Ballard does not say this. Contrary to the Examiner's interpretation of Col. 9, line 20 - Col. 10, line 40 discuss the fields of human readable text. The entire citation provided by the Examiner to explain what is in the dataglyphs does not even refer to the dataglyphs. Again, the Examiner's interpretation of this citation, as well as the other citation, appears to be nothing more than pure speculation. The Examiner has provided no factual evidence of anticipation.

The discussion of Col. 9, line 20 – Col. 10 line 17 refers only to the fields of human readable text on the receipt, e.g., fields 370, 372, 374, and so forth. Col. 10, lines 18-40, refer to items that are not shown on the ticket in Fig. 3B, but might appear in other receipts. The citation has nothing to do with what is contained in the dataglyphs –

namely ticket formatting information as discussed elsewhere by Ballard. The rejection to claim 18 is clearly traversed.

It is also respectfully noted that the entire citation Col. 9, line 20 – Col. 10, line 40 provided by the Examiner does not refer to a merchant number.

6.   Claims 2-4, 7-15, 17, and 19-20 Rejection under 35 U.S.C. 103(a)

Evidence cited by the Examiner – p. 5, [0061]

The Examiner did not respond to Applicant's discussion of the above citation relied upon by the Examiner on page 28, paragraph (2). The Examiner's assertion that this paragraph discusses credit card information and receipts with bar codes is incorrect. In fact, Cruse does not teach the use of machine-readable codes on printed receipts.

Cruse does not disclose using a bar code on a receipt. Cruse explains a bar code that is on the inventory bins – not on a receipt. FIG. 2, items 210B, 220; FIG. 4, item 405 and paragraphs [0029], [0037], [0058], [0083]. The bar code on the inventory bin cannot be used to predict the future dates of purchase or the future costs of a purchase. Therefore, the bar code could not possibly include date of purchase or amount of purchase or credit card number or a signature because such details of future orders are not known before the transaction is made, as required by the claim language. The bar code shown in Cruse is not part of a paper receipt. When the goods are received, they preferably have a bar code, which is scanned. From this, a paper receipt may or may not be generated. According to the only description provided by Cruse, a

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paper receipt does not exist at the time of scanning the bar code. [0038]. Cruse shows no details on processing scanned images and apparently does not show anything like Appellant's invention. Cruse does not address the credit card chargeback problem. Cruse does not mention "credit card" at all.
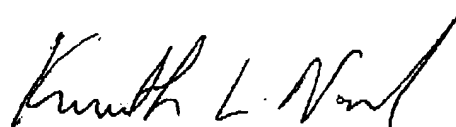
With all respect, the Examiner's assertions concerning Cruse are incorrect to start with, due to the Examiner's failure to interpret the references with any accuracy. Again, the Examiner appears to be using speculation rather than factual analysis of the citations.

The Examiner did not answer the following arguments by Application: Cruse is non-analogous art (Applicant's Brief, p27. Cruse does not teach that which the Examiner's Answer asserts it does (Applicant's Brief, p. 29). There is no motivation to make the proposed combination of Cruse and Ballard (Applicant's Brief, p. 31). Neither Ballard nor Cruse recognizes the problem to be solved. (Applicant's Brief page 32). To modify Ballard as taught by Cruse would frustrate the operation of Ballard. (Applicant's Brief page 34).

SUMMARY

Accordingly, Applicant believes that the application now stands in condition for allowance, and respectfully requests that a Notice of Allowance be issued forthwith.
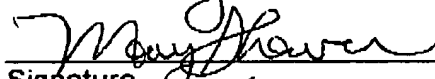
Respectfully submitted,

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